

Appl. No. 10/828,539
Reply dated May 18, 2009
Reply to Office Action mailed February 17, 2009

REMARKS

Applicant wishes to thank the examiner and his supervisor for the courtesy of the in person interview.

Applicant has updated the priority claim as requested by the examiner.

In response to the claim objections, Applicant has amended certain claims to address the examiner's objections and cancelled some claims.

PRIOR ART REJECTIONS

In response to the examiner's rejection of claims 1, 3-12, 17-20, 25-26, 29 and 33-42 as being anticipated by US Patent No. 6,585,633 to Vitali et al. ("Vitali"), the rejection of claims 13-16 and 30-32 as being obvious over Vitali in view of US Patent Application Publication No. US 2002/0022781 to McIntire et al. ("McIntire") and the rejection of claims 27-28 as being obvious over Vitali in view of US Patent No. 6,347,443 to Coniglione ("Coniglione"), Applicant respectfully traverses the rejections because the claims have been amended and distinguish over the prior art as discussed during the personal interview.

Claims 1, 3-12, 17-20, 25-26, 29 and 33-42 – Vitali

Claim 1

This claim was rejected as being anticipated by Vitali. However, claim 1 as amended is not anticipated by Vitali for at least the reasons discussed during the personal interview conducted on April 28, 2009.

Claim 1 recites "An implantable brachytherapy seed device configured to be imaged" that is not disclosed by Vitali because Vitali discloses a brachytherapy seed cartridge that is not implantable and is also not configured to be imaged as discussed during the personal interview.

Claim 1 also recites "a parabolic surface defining a body chamber filled with a gas; and a radioisotopic component inside the body chamber that is surrounded by the gas wherein the gas has a density difference with the body chamber and the tissue into which the implantable brachytherapy seed device is implantable so that the implantable brachytherapy seed is more easily imagable using acoustic energy" which is not disclosed by Vitali because Vitali does not disclose these elements.

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Thus, amended claim 1 recites elements that are not found in Vitali and the anticipation rejection based on Vitali should be withdrawn.

Claims 3-12, 17-20, 25-26, 29 and 33-42

These claims all depend from claim 1 and the anticipation rejection of these claims must be withdrawn for the same reasons as claim 1.

Claims 13-16 and 30-32- Vitali in view of McIntire

These claims all depend from claim 1 and the obviousness rejection of these claims must be withdrawn because: 1) Vitali does not disclose each element of claim 1 as set forth above; and 2) McIntire does not cure the elements not disclosed in Vitali so that each claim element is not disclosed by Vitali or McIntire and the examiner has not established a prima facie case of obviousness for these claims.

Claims 27- 28 - Vitali in view of Coniglione

These claims all depend from claim 1 and the obviousness rejection of these claims must be withdrawn because: 1) Vitali does not disclose each element of claim 1 as set forth above; and 2) Coniglione does not cure the elements not disclosed in Vitali so that each claim element is not disclosed by Vitali or Coniglione and the examiner has not established a prima facie case of obviousness for these claims.

CONCLUSION

In view of the above, it is respectfully submitted that the claims are allowable over the prior art cited by the Examiner and early allowance of these claims and the application is respectfully requested.

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The Examiner is invited to call Applicant's attorney at the number below in order to speed the prosecution of this application.

The Commissioner is authorized to charge any deficiencies in fees and credit any overpayment of fees to Deposit Account No. 07-1896.

Respectfully submitted,

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